



## **Ep. 23: US-China Trade War – What Business Needs to Know**

**December 11, 2019**

### **Jose Garriga:**

Hello, and welcome to *OnAir with Akin Gump*. I'm your host, Jose Garriga.

\$659.8 billion. That's the total two-way goods trade between China and the U.S. in 2018.

China is the largest goods trade partner of the United States. However, the relationship has traditionally been strained by the size of the goods and services trade deficits that the U.S. carries with the PRC. Long before his ascent to the presidency, Donald Trump advocated measures to reduce the general trade deficit, characterizing the U.S. as being "ripped off" in its trade relations, language to which he returned this year in describing China's trade practices and setting a combative tone for trade talks.

The U.S.-China trade war has been headline news for almost two years, and the ups and downs of this vital trade relationship have been the subject of commentary and speculation and the cause for market spikes and dips.

In today's episode, Akin Gump international trade partner Steve Kho and public law and policy partner Clete Willems will discuss the U.S.-China trade relationship, where it's been and where it may be going.

Both men bring ample relevant experience to this conversation. Before joining Akin Gump, Clete was Deputy Assistant to the President for International Economic Affairs in the Trump administration, the lead U.S. negotiator at key summits and before China and the EU, Legal advisor at the U.S. Mission to the World Trade Organization, and Chief Counsel at the Office of the U.S. Trade Representative.

Similarly, before joining the firm, Steve served as Associate General Counsel and Acting Chief Counsel on China enforcement at USTR and also served as Legal Advisor to the U.S. Mission to the WTO. They'll be bringing their years of insight and access to bear on the questions we'll be discussing today.

Welcome to the podcast.

Steve, Clete, thank you both for making the time to appear on the show today.

So, let's start with a bit of a recap. At the recent NATO summit, President Trump had mentioned that a China trade deal could be delayed until next year. However, meetings earlier this year between the Chinese and U.S. trade delegations generated cautious

optimism among observers. So, what's the current state of play, and are we closer to a deal or a delay by year's end? Clete, if you'd lead off.

**Clete Willems:**

Thanks. And thanks for the opportunity to speak with you today. This is a critical week for the U.S.-China trade negotiations, and the relationship more broadly. And at the moment, if nothing changes by December 15th, the U.S. is going to move forward with its List 4B of an additional \$160 billion in tariffs that are going to affect consumer goods traded between China and the United States. And that is what will happen if nothing changes. That said, the two sides have been talking to each other. The conversations have been intensive, and they are trying to find a way to get to a phase one deal that would forestall that and potentially even roll back some of the tariffs that were put in place earlier. Now, it is uncertain at this moment. And I think that the NSC director Larry Kudlow said it best when he was on TV on Friday, and he said, "The President's going to make the final decision on whether we're going to move forward or not."

And I do believe that it's an open question. That said, my view is that they're going to find a way to move forward without putting those tariffs in place. And fundamentally, I think that the phase one deal is something that's in both of their interests. The U.S. has the chance to get additional market access to China in a lot of areas where it's been lacking in years past. And from China's standpoint, it's an opportunity for them to be able to make some reforms that some of the individuals in their government and in their economy think that are actually good for China.

Additional intellectual property rights protection—that's good for China. Getting more U.S. export support, especially when they have a swine flu crisis—that's good for China. And, so, notwithstanding all the ups and downs, all the misleading headlines and thinly sourced news articles, I think we're going to get to yes. There's going to be a delay. It's not clear to me yet whether they're actually going to be able to announce a deal this week or simply that they're going to announce enough progress has been made that they hope to sign a deal on phase one in the near term.

**Steve Kho:**

So, just my views very quickly, Jose: I'm just not sure how you can actually get to a deal. There's a lot that has been said publicly that seems to lock both sides in. President Trump has insisted on getting purchases, agriculture purchases, of \$40 to \$50 billion from China—something China has said it never agreed to and will not be forced into. China is insisting that the U.S. agree to lowering tariffs, not just to put in the 4B tariffs that is due at the end of this week, but also to roll back existing tariff—something that the Trump administration said that is not on the table. On top of that, the recent bills that have been passed and also being considered: the Hong Kong human rights bill, the Uyghur human rights bill, the Huawei decisions on the export control side.

I mean, those are all things...It's hard to see how China can cut a deal, and domestic constituents still look like they are holding up on their rights on their own end and not being forced or pushed around. That said, this trade war is hurting both sides. Both sides need to have a solution here, sooner rather than later, even if it is a partial solution. It hurts. And, so, somebody's going to capitulate, and maybe both would decide that they would both capitulate at the same time, Clete, is that a possibility?

**Clete Willems:**

I was waiting a long time for your "that said." [*laughter*] Because I fundamentally agree with your point, which is that the political conditions right now in both countries make it very problematic to get to a deal. And I do think that, in China, ever since some of these actions they've been taking earlier this spring, in particular the actions on Huawei, a nationalist sentiment has been on the rise, and that has narrowed the political conditions for President Xi to try to make a deal. I think, on the U.S. side, you see a little bit of the same phenomena where being tough on China is just about the only thing that we all agree on in Washington, D.C. And so I do think the political conditions are very tough,

and I do think that that's the reason why we may not get the comprehensive deal that the U.S. was hoping for earlier this year.

But what I think has happened is both sides have recognized that there is value in harvesting something in a phase one deal, that there is value in de-escalating if they can and that they've made the political calculus that this incremental phase one deal is in both of their interests. And I do think that they're going to get there.

And I just want to comment briefly on this Hong Kong issue, because I think it's relevant the way that the President handled it. And there's no question that China isn't happy that the U.S. Congress is passing legislation on Hong Kong, or that they're passing legislation with respect to Xinjiang province and what's going on there.

But I think if you look at the way the President has handled this, he has generally downplayed it, and he has made it clear to China that this is something that Congress has initiated. And that to me is a man who is interested in a deal. And, so, I think that this still comes together. But that said, I mean, let's all be honest here. There's an inherent unpredictability in the way that the President negotiates. It's something that he thinks gives him leverage, and there's a chance that he decides to move forward. I will not take that off the table, but I do think, at the end of the day, there's too much to gain and too much to lose here, and I think they find a way to get a deal in the next month.

**Jose Garriga:**

So, in that vein, for those listeners who may not have the benefit of your informed advice on a regular basis, what signs should listeners be looking for in order to be able to get an ongoing read as to how negotiations are progressing if the situation should remain unstable past the end of this week? Clete, what do you think about that?

**Clete Willems:**

Well, I think first of all, listeners and investors, in particular, need to be careful not to read into every single article printed in the newspaper or put online, not to read into every single comment made by one-off government officials on either China or the U.S. side. These are complex issues, these are complicated decisions, and there's a lot of people looking for information. There's not a lot of information leaking out, and some people are reading into stuff more than they should. Look at the fundamentals, look at what the countries are actually doing. And one of the things that significant to me is whether or not China is actually taking actions consistent with U.S. objectives. And one of the things that I think was a positive signal was, on Friday, they indicated that they would issue additional waivers for tariffs that U.S. exporters were paying on soybeans and on pork.

And this signals that China is trying to move in the direction of the U.S., and trying to let in more U.S. agricultural products, which is going to be a critical component—not the only component, this is still fundamentally about technology—but an important component to the President in phase one. So, I think more actions like that coming from China would send a positive signal this week that we're getting closer to yes. China could also look at making additional announcements on intellectual property or technology, which are also core concerns of the United States. And there was some rumblings this morning in China that they had suggested that the Ministry of Commerce might make additional announcements this week and that reporters should be looking out for them.

So, I think what those actions are intended to do is for China to say, "Look, maybe we won't actually get to a phase one deal this week, but if we don't, these are the kinds of things that we're willing to do. And we hope that these things will be enough that you don't move forward with December 15th, but, instead, let these talks continue for a little while longer until we can sign this maybe in January."

**Steve Kho:**

Yeah, I think that's right. The other thing that China did earlier on, unilaterally, was to pass the revised foreign investment law, and in it, their foreign investment law had things like releasing equity caps and also statements about not requiring and not insisting on forced technology transfer. So, things like that are little nods to try and resolve the concerns of the United States. So, watching some unilateral actions, I agree with Clete, is what you would look at.

I would say that you can't ignore the press altogether. I agree that you don't just focus on what one person says as if that person is the mouthpiece of the U.S. government or the Chinese government. But some of this is a little bit more art than science, and listening to the big echo chambers, what is being repeated a couple of times, what is being said through several different ministries or things like that, where if you're hearing echoes and rumblings that are repeated over and over—I think those are something that could perhaps suggest the direction things are headed.

**Jose Garriga:**

So, let's talk a little bit about where we are right now. Let's look ahead a bit. There's been some reporting, and there's been some speculation that China's playing a long game—perhaps trying to wait out the Trump administration, perhaps trying to get to the 2020 presidential election with that in mind.

What are the prospects of—and you've spoken to this a bit, but let's look at it in the context of the election—what are the prospects of the two countries reaching a deal before then, and more to the point, who stands to win or lose if they don't reach a deal before November 2020?

**Steve Kho:**

I think both lose. I think this is a situation where both sides are saying that they can withstand it better than the other. I think both sides are admitting also that there will be pain. Just the question is, who has more pain? But the bottom line is, you can only withstand pain for so long. It doesn't really matter at the end, which side can withstand longer or not. It's your domestic constituents who are going to matter.

I think, with China, they always think they can play the long game. They talk about their 5,000 years of history. Whether that's true or not, it really depends on the situation. They have thought about, and I'm sure it's still in their strategy, to try to wait things out. But what you see right now is a willingness to try to cut some partial deals earlier on. And it points to the fact that this is affecting them domestically, and they are having some issues. At the end of the day, it's good for both of them to have some of these deals. Who would really win out at the end of the day? Again, it's just hard to predict, but both are going to hurt if there's no deal.

**Clete Willems:**

And one of the things, while I was part of the administration, that we talked about all the time was, China plays the long game and we don't, and we need to change that. And I think if you look at the development of the Trump administration strategy, at least in the beginning, the idea was that we were willing to endure some short-term pain for some long-term benefit to the U.S. economy. And the theory was that, "Yes, tariffs may hurt us a little bit in the short term, but we're going to design them so they hurt China more." But more fundamentally, any tariff pain is going to pale in comparison to what our economy is going to look like over time in a decade if the United States doesn't respond to China's efforts to become the dominant player in all of the technologies of the future and to use a whole range of unfair trade practices, subsidies, forced technology transfer, outright discrimination, in order to achieve that goal.

And the U.S. felt that it simply could not handle the future where it didn't push back against these practices because it would be a dismal place. In terms of how this plays out with respect to the election, my view has been that the phase one deal is a win-win for the President. And, in particular, it will allow the President to show that he's a dealmaker, that he got China to do things that they hadn't done before. Because I do

believe that there will be components of the phase one deal that move the ball forward in significant ways. No, it won't solve all of our problems, but I do think that there will be progress made on intellectual property, on agriculture, on currency, on ownership caps, on a range of things that haven't been done before.

And, at the same time, the U.S. will still have taken more tough actions against China under this administration than ever before. There will be some level of tariffs that remain in place, and there will be a range of actions that are outstanding. And, so, the President is going to be able to say, "I got a deal and I'm still tougher on China than anyone else has ever been." I also think a deal is a win-win for the U.S. and China. And I will say, first of all, as I mentioned in an earlier question, the things that they're talking about in phase one, they're going to help China's economy too. And that's a good thing.

But, more importantly, I worry that if the U.S. and China moved too far too fast down this path of all-out trade combat, decoupling and things like that, we could very quickly get into a bad place. We could get into a Cold War-type scenario. And it's important that the countries learn to say yes to each other on occasion, that they prove that, "Yes, we can work together where it's in our mutual interest." And, so, I think going beyond the short-term economics of this, you also need to be looking at the long-term geopolitical importance of the U.S. and China being able to say yes to each other. And, so, again, I think it's a win-win for U.S., for China, and for the President to get a deal here in phase one.

**Jose Garriga:**

A reminder, listeners, that we're here today with Akin Gump international trade partner Steve KHO, and public law and policy partner Clete Willems discussing the fractious but critical U.S.-China trade relationship.

Now, as I mentioned in the introduction, both of you bring extensive experience with the World Trade Organization to your client work. So, to what extent are the U.S.-China conflicts at the WTO a mirror or perhaps a microcosm of the bilateral trade relationship? And to what extent are other countries on the U.S.'s side in this and other multilateral organizations and fora? Steve, if you would, please.

**Steve Kho:**

Yeah, I don't view the current WTO as either. It's neither a mirror nor a microcosm of what's going on in the bilateral relationship between U.S. and China. To me, what the WTO is right now, with respect to this bilateral relationship, is it's a failed tool. It's a failed tool because, frankly, I think the U.S. misused it. The power of the WTO really is in multilateral pressuring. The U.S. has blown that to bits by going after all the other countries and to go after them in quite a forceful way on other unrelated issues. On China, the WTO also is just not being reined in. The rules of the WTO have not really kept up with all of China's measures—their nontariff measures, the uniqueness of the 21st century in terms of trade barriers—they have not kept up with that. And the U.S. itself is no longer really following the WTO rules either, choosing to be more like China, choosing to violate WTO.

Now, they will say that they're doing so in a way where they're permitted to do so because the initial violation was not covered by the WTO. So, then, their response should be permitted regardless of whether those responses are in violation of WTO or not. I don't know if that's going to get any better. I think what we saw recently, just in the last week or two, is that the U.S. is going after Brazil and Argentina, for example, for selling agriculture to China when the U.S. is refusing to sell. So, rather than work together, they are now saying, "Well, we're going to increase, or take away your tariff quotas in the [*Trade Expansion Act of 1962 Section*] 232 steel and aluminum because you are not on our side." With the EU, similarly, the potential trade war, the second front of the trade war, on the Atlantic side, it's only opening up further with new [*Trade Act of*

1974 Section] 301 tariffs on aircrafts and then additional 301 tariffs on the digital services tax against France and possibly other countries down the pipeline.

**Clete Willems:**

So, I would say, first and foremost, that the problems that the U.S. is trying to confront with respect to China, the problems of forced technology transfer, intellectual property theft, these aren't just U.S. problems. These are problems that equally face companies and governments in Europe, in Japan, in Korea, in Canada, Australia, around the world. And, so, I think that the problems that the U.S. has identified are problems that other countries have identified and that they're confronting as well. Now, it's important that the U.S. find ways to work with those countries as much as possible to pressure China. I agree with Steve's point that I think the U.S. could have done a better job of that. While I was with the administration, I did urge international cooperation as much as we could. However, we all have to be realistic about the shortcomings of the current system and some of the problems with ambition of other countries around the world.

First, with respect to the WTO, the reality is the WTO doesn't have rules on many of the problems that the U.S. has identified. The Section 301 report looked at forced technology transfer—there are no rules of the WTO. It looked at the question of state-directed investment of sensitive technology—no rules of the WTO. It looked at cyber theft—no rules of the WTO. The one issue under the 301 report that was covered by the WTO, which was licensing of intellectual property on nonmarket terms, the U.S. actually moved forward with a dispute at the WTO, it had the support of the European Union, and, ultimately, China settled that issue and changed its measures. And, so, that is, I think, a perfect example of the shortcomings of the WTO.

The other element I mentioned is the issue of ambition. And I think that the U.S. government's perspective has been that entities like the European Union haven't yet decided how forceful and how tough do they want to be on China. And do they want to prioritize some of the issues they have with the U.S., or do they want to prioritize the problems with they have with China? And I think that that has undermined our ability to work together. Now, they can make the same argument about us. And I think that they may have some validity there that when we're going after them, it makes it harder to work together. But, ultimately, it's in both of our interests to solve these China problems. And I hope that we can put aside our differences and work together.

And that is really, in my mind, going to be the only way that we solve this. And what I hope will happen is that the U.S. and China will reach a phase one deal, and maybe they'll make progress on other issues as well as in phase two, but then what they need to do is they need to take that agreement and multilateralize it. Because the only way that it's going to be sustainable is if the EU, Japan, Canada, all the others that I mentioned, work with the U.S. and enforce it against China together. That is the best way to solve these problems over the long run.

**Steve Kho:**

I think multilateralizing a deal between China and the U.S., while important, at the same time in the parallel process, we just need to multilateralize our views on China, our views on working together to ensuring that China and those particular actions that China is taking do not spread further. If we stop trading with China, somebody else is going to step into the void. Part of the reason to multilateralize this effort is to ensure that nobody else steps into the void. And that's one way to be able to wall China off a little bit. To tell them that if you want to participate in the global trading community, you got to do so along the same rules and along the same paths as everyone else, that you can't cherry-pick off individual countries. It's very hard to do that when you isolate everyone else and you kind of go your own way.

**Jose Garriga:**

Let's turn now to something that Clete had mentioned earlier. In D.C.'s partisan environment, Democrats and Republicans are fighting over a whole range of issues—

gun control, climate change, health care reform—and the ongoing impeachment proceedings against President Trump will perhaps only serve to exacerbate that polarization. So, Clete, do you think that currently fractious relations between the two parties will benefit China as a wedge issue? Or, as you mentioned earlier, do you think that there will continue to be this unanimity where everybody in Washington agrees regarding what we should feel or the attitude we should take towards China? And, if so, how is it that this one issue manages to bring everybody together?

**Clete Willems:**

Well, look, I do think that there's going to continue to be some level of unity on China, on the strategy in a broad sense. And, in many respects, I think what the President did successfully in the election was he took an issue from the Democrats that had been historically a Democrat issue.

I mean, for years, the Democratic Party has been the one who has been more focused on China and the problems of unfair trade practices. It's been the party that's been more concerned about different rulings coming out of the WTO. It's the party that had been more willing to take tariff and other trade remedy actions. And, so, I think in many respects what you've seen happen is the President take a traditionally Democratic issue, and that, in some senses, has immediately unified the parties. I also think that, from the Republican side, the national security issues have come to the fore. And a lot of the concerns that you see from the Republicans have a trade angle but also have a national security angle. And I think that those two issues are converging here, and, therefore, it's easy for everyone to be on the same page.

Now, where I've seen a little bit of a divergence has been on some of the specific critiques of the tactics, and, in particular, the idea that the President put tariffs in place and doesn't yet have much to show for it. Now, I would say what the tariffs have done is, yes, they've been harmful to people, but they have brought China to the table and have gotten issues discussed that hadn't been discussed before. But, ultimately, the President is going to need, I think, to get a deal because he doesn't want to go into the election and say, "Look, I don't have much to show for all these tariffs that I put into place."

And again, going back to your original question, that's part of the reason I think we get there, is I think it would be a very strong line of attack for Democrats to say, "All these tariffs, and nothing to show for them." And so I do think the President needs to be careful, make sure he does get something with China. And I think that will help keep parties unified on this issue going into the election.

**Steve Kho:**

Yeah, I absolutely agree with that last point. I mean, as long as there's progress, you're going to see some unity moving forward. But if there's not, you're already hearing it, I mean, the pain to the constituents of some of these members are really going to affect how they view the means, really. The means don't necessarily justify the ends for many of them, particularly when President Trump calls for someone to make sacrifices here or there, I don't think that really works for the American public, for a lot of people whose small-, medium-sized businesses were going down the drain. I mean, asking them to sacrifice their life's work or sacrifice their family farm, I'm not sure that that is really the way to move forward.

Now, I do think also the means, with respect to the national security issue that Clete makes, it's very important to draw the distinction between national security and economic issues. National security, unfortunately, has become part of the means, part of the tactics. It's not clear whether national security really is the actual thing, the concern right now. It's being thrown around as a "Well this is my reason for doing this," without really a linkage between true national security and what actions are being taken. I do think there are concerns being raised in Congress now, both the Dems and the Republican side raising concerns about that, concerns about the use of the 232 tariffs

and IEEPA [*International Emergency Economic Powers Act*] and other emergency tools. So, I think some of that has to get cleaned up a little bit. But, ultimately, if there is progress, China is willing to go into a phase one, the U.S., as a whole, will toe the line.

**Jose Garriga:**

Thank you. So Clete, you were with the Trump administration for the initial trade talks with China as you mentioned. Now you're outside government, you're advising companies on these trade war issues, among a variety of others. Has your view of the administration strategy changed now that you're out of the trenches?

**Clete Willems:**

Yes and no. I think one thing that actually surprised me while I was in government and even as I was transitioning to the business community was the overarching and general support for being tough on China and taking these practices on. I remember when we were first sitting around in the White House talking about the potential for between 35 and 50 billion in tariffs. I thought, "Oh my gosh, that's a lot, people are going to go nuts." And the reality is, it has hurt individual companies and we've heard that, and some of the companies we represent are hurt by it.

But overall, the support has been pretty strong in saying, "This is the right thing. Even if we don't like your tactics, even if this hurts us in this particular way, we're glad you're finally taking these guys on." Because a lot of those companies had seen these same problems with China affect their own bottom lines over time. What I think I've gotten a greater appreciation of is the importance for nuance in the actions that we take and the importance to make sure that we mitigate any of the unforeseen consequences. Obviously with the 301, you can look at tariff exceptions and things like that. Those are critically important for our companies. There are certain companies who get caught in the crossfire who don't deserve it. We need to be cognizant of that.

I think when you look at the actions we've taken on Huawei, I think we can't paint all of this with the same brush. And, in particular, I think about the placing of Huawei on the Entity List. There's no question in my mind that Huawei is a significant national security threat. But I do think, in some level, you need to draw a distinction between what it means to have Huawei in U.S. networks versus what it means to allow U.S. companies to help provide components for Huawei phones, put streaming services or other things on their phones. One of those, I think, clearly, is a national security threat. And the other, I'm not so sure. And I do think that when we call all of these things "national security," we undermine our international credibility. And we also cut off a source of revenue for our companies where they can take that revenue that they make from China, bring it back to the United States, pump it into R&D, and then make sure that we're the innovation leader.

And I think that some of those things aren't as well appreciated inside the administration as they could be. And the last point, I think, that really has been driven home for me is that I think the administration does need to be careful about the uncertainty that it creates and how uncertainty does lead certain companies to hold back on capital investment, which is something that this administration really wants to see. And one of the things I hear from a lot of my clients is, "Love the tax cuts, love the deregulation. But this uncertainty on trade makes it really hard for us to make the investments in this economy." And I think the administration needs to be a little bit more cognizant of that.

**Jose Garriga:**

Steve, similarly, you were Acting Chief Counsel on China enforcement at USTR during the George W. Bush administration. So, looking at it from that perspective, how does the Trump administration's approach differ from that of earlier presidents? And is there more upside or downside to the Trump approach in your opinion?

**Steve Kho:**

So, the differences are the Trump administration's approach is much more aggressive than what I had seen when I was in the administration. Much less diplomatic, much less strategic and less focused. There's good and bad to all of this. I mean, at the time, in the



administration, I felt that we could have been more aggressive, but it does not help to be less strategic and less focused. So, to me, at the end of the day, there's more downsides than upsides. And I think my concern about that is I've seen deals cut where you force the other side into it. I mean, you just cram it down their throats. And the first chance they get they will cut away from that deal. They will find a way to undercut it. They will find a way to get out of it. They will work fervently to go around it as they can find loopholes.

Whereas, if you're able to work on a true win-win, where both sides get to a place where they're comfortable, and they truly see that there are upsides for both of them, you will see both sides trying to maintain the deal and sustain it for the long term. I do worry about that part.

**Clete Willems:**

I want to make a comment on this if I can. And I want to say, first, as a fundamental point, I do think what this President has done has been necessary, and I do think that some of the disruption that he has introduced into the international trading system was long overdue. I think a tougher approach to China was long overdue. I think a recognition of some of the shortcomings of the international trading system was long overdue. Only when you recognize that there's a problem and create the conditions for real conversations to happen about those problems can you get the reforms that are needed to make sure that those institutions and that trade, in general, is sustainable. And so I think the President has performed a service in that respect.

That said, I do think that sometimes it would benefit this administration to be more focused. And I see it as the threat posed by China and the problems with the WTO not being modernized and not keeping pace with current issues—those to me are the real long-term problems that are going to face the United States. And I think we need to focus more on those issues and maybe focus a little bit less on some of the things that we could prioritize lower. So, again, I think the President has shown leadership in a way that hasn't been done before, but I also wish, and I tried while I was part of the administration, to try to focus that energy a little bit more. And I think that's something he could continue to do better.

**Steve Kho:**

I think these are problems that we've seen coming from a long time ago. This is not like the Trump administration saw something new that nobody else saw. We all saw it. I agree with Clete, I mean, he's taken some very aggressive steps that should have been taken a while ago or should have been considered long before. There was some trepidation in doing so, and that's unfortunate. But this administration, as far as I can tell, has no ability to calibrate itself, to move on a dime, to weave and to figure out strategically where to speed up and where to slow down to get things done.

What this administration has done is go full-bore all the time; it is foot to the pedal regardless of the impact, regardless of what happens. And, to me, that's a bit unfortunate because you could see where, if the U.S. was able to start and stop, and be very strategic about doing these things, I think we would be a lot farther along than we are right now.

**Jose Garriga:**

So, just to wrap up, a question for both of you. What are the short- or medium-term takeaways that you could offer listeners in the business community? You've addressed some of these topics, but let's see if we can just distill these to a couple of takeaways regarding the impact of trade issues, whether we're talking tariffs, whether we're talking import controls, whether we're talking trade deficits on, as I think you both recently mentioned, their ability to plan.

**Steve Kho:**

Let me start with what Clete said before. There is no predictability right now. It's very difficult to predict what this administration will do and what the Chinese will do. That's always been difficult, but when your own government, when it's hard to predict in that

way, I think that is very difficult for businesses. It's very difficult for them to make long-term, even some short-term decisions. What we've been counseling a lot of our clients is, "Look, have a plan B, but have more than one plan B. Have several plan Bs in place and continually review those plans and adjust them as you need to, given things that happen. Every Friday night, whatever news comes out, or every Monday morning, just need to be cognizant and aware of what's going on and be nimble, be flexible, be able to react quickly." Businesses are playing defense, and that's just unfortunately the way it is right now.

But there is a way for them to play a little bit of offense, and I think for those who have not engaged the U.S. government before, it's very important for them to engage them now, to talk to the people who are the decision-makers or who are one step away from the decision-makers. To be in there, to get your voice heard, to be known as somebody who this could affect so that they are aware when decision-makers are deciding what to do, they are aware of your concerns and your issues.

**Clete Willems:**

Let me just underscore that last point. I think it's absolutely crucial. There are a lot of people in the White House and throughout the executive branch, there are a lot of people in Congress who are trying to do the right thing, and they're trying to take on some of these longstanding problems and solve these problems for our country. But they need to hear from businesses, and they need to understand, "What are the implications of what they're doing, the good and the bad, and what are better ways to solve those exact same problems?"

So, I do think that this China issue is going to be with us for the foreseeable future. And we talked earlier about whether it's a long-term or short-term issue. I think the best way to say it is the issues between the U.S. and China are not new. They're not going to be solved in the near term, and they're not going to go away. And you need to be proactive. You need to get in the game, try to shape the way that our government deals with these problems. Try to shape the way that China responds to these problems so that you can find a good way to do business that benefits your companies and benefits both of our countries. And the only way to do that is to get in the game and get off the sidelines.

**Jose Garriga:**

Thank you. Thank you both. Listeners, you've been listening to Akin Gump international trade partner Steve Kho and public law and policy partner Clete Willems. Thank you both for appearing on the show today and sharing just a terrific amount of knowledge and experience with listeners on a relationship that's absolutely critical for business on both sides of the Pacific.

And thank you, listeners, as always, for your time and attention. Please make sure to subscribe to *OnAir with Akin Gump* at your favorite podcast provider to ensure you do not miss an episode. We're on among others, iTunes, SoundCloud and Spotify.

To learn more about Akin Gump and the firm's work in, and thinking on, international trade and on public policy, look for "international trade" and "public law and policy" on the Experience or Insights & News sections on [akingump.com](http://akingump.com) and take a moment to read Steve and Clete's bios on [akingump.com](http://akingump.com).

Until next time.

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